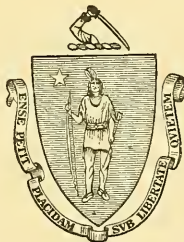


The Commonwealth of Massachusetts

MASS.
DOCS.
COLL.

ANNUAL REPORT
OF THE
ALCOHOLIC BEVERAGES
CONTROL COMMISSION
FOR THE
YEAR ENDING NOVEMBER 30, 1936



(24 School Street, Boston)

Publication of this Document Approved by the Commission on Administration and Finance.
2M. 10-'37. Order 2512.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

ANNUAL REPORT

To His Excellency, The Governor, and to The General Court of The Commonwealth of Massachusetts:

SIRS: In accordance with the provisions of Section 44 of Chapter 6 of the General Laws, as amended, we have the honor to submit the Fourth Annual Report of the action of the Alcoholic Beverages Control Commission, and of the conduct and condition of traffic in alcoholic beverages during the fiscal year ending November 30, 1936.

The term of Chairman William P. Hayes having expired on April 7, 1936, he was reappointed by His Excellency, Governor James M. Curley, with the advice and consent of the Governor's Council.

In our reports for the fiscal years ending November 30, 1934, and November 30, 1935, respectively, we explained in detail the original provisions of our Liquor Control Act and the various Amendments which had been adopted.

The following is a brief summary of the more important Amendments which were adopted during the Legislative Session of 1936:

1. Licensing Authorities not being empowered to order the removal of any advertising matter, screen, curtain or other obstruction which prevented a clear view of the interior of a Restaurant an amendment was adopted which authorized the said Authorities to require the removal of any such obstructions.

2. An amendment was adopted which prohibited the service of alcoholic beverages on Sundays at bars or counters in Hotels, Restaurants and Clubs.

3. The provisions of the Act relating to the adulteration of alcoholic beverages were made much more stringent.

4. An amendment was adopted prohibiting an alien from selling, serving or delivering alcoholic beverages. Prior to the adoption of this amendment, the employer of an alien, but not the alien himself, could be penalized.

5. An amendment was adopted which provided for the payment of an Excise Tax at the rate of forty cents per proof gallon on certain alcohol sold within the Commonwealth.

6. An amendment was adopted giving voters the opportunity to vote for the sale of alcoholic beverages in "Package Goods" Stores only. In cities and towns which so voted, no alcoholic beverages could legally be sold to be drunk on the premises.

7. An amendment was adopted which made it illegal for any person to procure a sale of alcoholic beverages for a minor. Prior to the adoption of this amendment, alcoholic beverages could be served to a minor in a licensed establishment if they were not ordered by the minor.

8. An amendment was adopted which permitted "Package Goods" Stores to sell alcoholic beverages on legal holidays between the hours of one o'clock P. M. and six o'clock P. M. Prior to the adoption of this amendment, "Package Goods" Stores could not legally sell alcoholic beverages on legal holidays.

A statement of the income and disbursement of the Commission follows:

FINANCIAL STATEMENT

Summary of Income Received from Fees for Licenses and Permits
Issued by the Commission under Chapter 138 of the General Laws,
as Amended.

Manufacturers' Fees (Sect. 19).....	8	distilleries)	
	16	breweries)	\$72,052.00
	1	cider mill)	
Wholesalers' and Importers' Fees	109	all alcoholic beverages)	
(Sect. 18)	100	wines and malt beverages)	478,000.00
	2	sacramental wines)	
Alcohol Fees (Sect. 76).....	41	licenses for sale of alcohol for me-)	
		chanical, manufacturing, chemical or)	12,300.00
		other commercial purposes only)	
Agents', Brokers' or Solicitors' Fees			
(Sect. 18A)	61	licenses	18,302.00
Railroad Fees (Sect. 13)	4	licenses, 126 cars	526.00
Steamship Fees (Sect. 13)	8	licenses, 23 vessels	2,301.50
Special Permit Fees (Sect. 22A)	64	licenses	1,862.29
Storage Permit Fees (Sect. 20)	16	annual, 2 seasonal, 4 bonded)	
		warehouses, 1 special storage)	8,300.00
Transportation Fees (Sect. 22)	493	express or trucking companies)	
	2	railroad corporations)	5,565.00
	2	steamship companies)	
Transportation Fees (Sect. 22)	3,528	vehicles owned by licensees or)	
		their employees)	3,528.50
Salesmen's Fees (Sect. 19A)	2,171	permits	21,715.00
Miscellaneous Income			85.40
Total Receipts			\$624,537.69

Statement of Appropriations and Expenditures

Expenses Appropriation	\$39,000.00
------------------------------	-------------

Expenditures

For office supplies and equipment	\$14,717.94
For traveling and other expenses	24,281.92
	38,999.86
Balance Unexpended: Returned to Treasurer and Receiver General14
Personal Services Appropriation	108,000.00
Expenditures	103,993.77
Balance Unexpended: Returned to Treasurer and Receiver-General.....	\$ 4,006.23

The Department of Corporations and Taxation, Division of Excise Taxes, collected the sum of \$4,120,227.59 for taxes on alcoholic beverages sold in Massachusetts during the fiscal year ending November 30, 1936.

Local Licensing Authorities are required by the provisions of Section 10A of the Liquor Control Act to file with the Commission during the month of December of each year a report of their actions during the preceding twelve months. Reports filed to date show that the various cities and towns which have voted to permit the issuance of licenses for the sale of alcoholic beverages have received a total of \$4,218,836.35 in license fees. Only seven towns have failed to submit reports as required by the Act.

APPEALS AND REMONSTRANCES

Section 67 of Chapter 138 of the General Laws, as amended, reads as follows:

"Any applicant for a license who is aggrieved by the action of the local licensing authorities in refusing to grant the same or by their failure to act within the period of thirty days limited by section sixteen B, or any person who is aggrieved by the action of such authorities in suspending, cancelling, revoking or declaring forfeited the same, may appeal therefrom to the commission within five days following notice of such action or following the expiration of said period, and the decision of the commission shall be final; but, pending a decision on the appeal, the action of the local licensing authorities shall have the same force and effect as if the appeal had not been taken. Upon the petition of twenty-five persons who are taxpayers of the city or town in which a license has been granted by such authorities or who are registered

voters in the voting precinct or district wherein the licensed premises are situated, or upon its own initiative, the commission may investigate the granting of such a license or the conduct of the business being done thereunder and may, after a hearing, modify, suspend, revoke or cancel such license if, in its opinion, circumstances warrant.

If the local licensing authorities fail to issue a license or to perform any other act when lawfully ordered so to do by the commission upon appeal or otherwise, within such time as it may prescribe, the commission may itself issue such license or perform such act, with the same force and effect as if issued or performed by the local licensing authorities."

During the fiscal year ending November 30, 1936, there were four hundred and sixty-seven appeals filed with the Commission by applicants for licenses who were aggrieved by the action of Local Licensing Authorities in refusing to grant the same or by their failure to act within the said period of thirty days. Three hundred and thirteen of these appeals were dismissed and denied by the Commission, and fifty were withdrawn either before or after hearing thereon. One hundred and four appeals were sustained by the Commission and the Local Licensing Authorities were ordered to grant licenses to the appellants involved.

No remonstrance against the continuance of any license was received during the fiscal year.

The fact that the Commission has disagreed with Local Licensing Authorities in their findings with reference to the granting of licenses in a relatively small percentage of instances testifies to the practicability of our Liquor Control Act. The Commission issued orders to grant one hundred and four licenses and in only fourteen instances did Local Licensing Authorities fail to comply with the Commission's orders.

Fifty-one licensees filed appeals with the Commission because of the fact that they felt aggrieved by the action of Local Licensing Authorities in suspending or revoking their licenses to sell alcoholic beverages. The appeals of twenty appellants were dismissed and denied by the Commission; fifteen were withdrawn before or after hearing; sixteen were sustained only insofar as they related to the penalties imposed, but the Commission found in each of these cases that the Local Licensing Authorities were justified in meting out penalties of some nature.

LAW ENFORCEMENT

Investigators of the Commission were required to investigate and submit written reports upon all applications for licenses which came before the Commission for approval during the fiscal year.

The Investigators also investigated 1564 complaints alleging violations of the provisions of the Liquor Control Act in licensed premises. In 706 cases evidence offered did not support the complaints.

In 174 instances complaints against licensees or their employees were sought and secured in the District Courts. Evidence obtained in 858 cases was referred to Local Licensing Authorities for their determination. In these cases Investigators testified at hearings before the said Authorities.

We present below a brief summary of the number and nature of complaints investigated and prosecuted, together with a statement of the disposition made in each case.

COURT CASES
1936

	Complaints Issued	Finding Guilty	Finding Not Guilty	Complaints Dismissed	Placed on File	Jail Sentences	Fines Imposed	Probation
Adulteration	2	2	—	—	—	—	2	—
Club—Sales to Non-Members	1	1	—	—	—	—	1	—
Conditions of Premises	1	1	—	—	1	—	—	—
Delivery on Sunday—Holiday	1	1	—	—	—	—	1	—
Gambling on premises	9	5	1	3	4	—	3	—
Hindering Investigators	3	3	—	—	—	—	3	—
Illegal Sales	9	8	—	1	1	—	6	1
Illegal Transportation	3	2	1	—	—	—	2	—
Keeping & Exposing for Purpose of sale..	10	8	2	—	2	—	5	1
Lack of Restaurant Equipment	1	—	—	1	—	—	—	—
Permitting Illegality on Premises	4	3	—	1	1	—	—	—
Sales by Aliens	10	10	—	—	1	—	9	—
Sales by Minors	8	8	—	—	3	—	5	—
Sales to Minors	25	25	—	—	2	—	22	1
Sales not Recorded by Druggists	9	8	1	—	4	1	4	1
Sales—Clubs, Restaurants (Consumption off Premises)	10	10	—	—	2	—	9	—
Sales of Liquor on W. M. License	11	9	1	1	3	—	7	—
Sales Outside Legal Hours	21	18	2	1	5	—	16	3
Sales Intoxicated Patrons	3	3	—	—	—	1	3	—
Sales—Package Stores (Consumption on Premises)	1	1	—	—	1	—	—	—
Sales Sunday without Prescription	24	22	1	1	1	—	21	—
Salesmen—Soliciting without proper permit	8	8	—	—	1	—	7	—
	174	156	9	9	32	2	128	7

COMPLAINTS REFERRED TO LOCAL LICENSING AUTHORITIES
1936

	Total	Conditions Corrected	Licenses Revoked	Licenses Suspended	Licenses Surrendered	Filed—Warn- ing given	Hours of Sale Modified	Licenses Modified	Charges Not Sustained	Penalty Imposed	Suspended
Adulteration of Beverages	8	—	—	2	—	4	—	—	1	—	—
Alien Licensees	5	2	—	2	—	—	—	—	—	1	—
Conditions on Premises	33	7	—	7	—	19	—	—	—	—	—
Clubs—Sales to Non-Members	40	—	1	24	—	14	—	—	1	—	—
Gambling on Premises	39	5	1	7	—	24	—	—	—	2	—
General Conditions Unsatisfactory	56	6	—	16	—	32	—	—	—	2	—
Hindering Investigators	12	—	—	4	—	6	—	—	1	1	—
Illegal Licenses	2	1	—	—	—	1	—	—	—	—	—
Illegal Purchases—Sales	46	8	1	6	—	28	—	—	1	2	—
Illegal Sales by Druggists	17	—	—	7	—	6	—	—	—	4	—
Illegal Transfers of Licenses	18	4	2	3	1	8	—	—	—	—	—
Illegal Transportation	17	8	1	—	1	7	—	—	—	—	—
Improper Advertising	21	6	—	—	1	14	—	—	—	—	—
Lack of Restaurant Equipment	30	3	3	5	—	13	—	2	2	2	—
Price Lists not Posted	2	—	—	—	—	2	—	—	—	—	—
Sales not Recorded by Druggists	24	—	—	8	—	15	—	—	—	1	—
Sales by Aliens	21	3	—	6	—	11	—	—	—	1	—
Sales by Minors	14	2	—	5	—	7	—	—	—	—	—
Sales to Minors	75	2	6	24	—	30	—	—	3	10	—
Sales—Clubs, Restaurants—To be Drunk off Premises	15	—	1	4	—	9	—	—	—	1	—
Sales Illegal Liquor	1	—	—	—	—	1	—	—	—	—	—
Sales—Intoxicated Patrons	76	2	3	31	—	36	—	1	1	2	—
Sales Liquor on W. M. License	25	1	1	10	—	10	—	—	1	3	—
Sales—Outside Legal Hours	162	1	3	67	2	73	—	—	7	9	—
Sales—Package Stores—To be Drunk on Premises	6	—	—	1	—	4	—	—	—	1	—
Sales while Standing on Sunday	23	1	—	13	2	7	—	—	—	—	—
Sales Without Charge	6	—	—	—	—	6	—	—	—	—	—
Salesmen—Soliciting without Proper Permit	19	13	—	—	—	6	—	—	—	—	—
Solicitors, Agents, Brokers,— Acting without License	7	7	—	—	—	—	—	—	—	—	—
Substitution of A. B. of Different Brand than that ordered by Customer	38	—	—	3	—	23	—	—	11	1	—
	858	82	23	255	7	416	—	3	29	43	—

HOTELS

While conditions surrounding the sale of alcoholic beverages in Hotels have improved, there is still room for more improvement. It is undoubtedly true that minors are being served and sold alcoholic beverages in these establishments. The Commission feels that the sale and service of alcoholic beverages to minors is a grievous offense and should not be tolerated. The amount of money invested in the operation of a Hotel is usually a very large sum and for this reason the Licensing Authorities are reluctant to revoke a Hotel license for the sale of alcoholic beverages. The Commission has, however, frequently warned Hotel licensees to exercise great care not to sell or serve alcoholic beverages to minors. The Commission feels that any violation which occurs in the future should be promptly and properly penalized.

RESTAURANTS

Problems arising from the sale and service of alcoholic beverages in Restaurants continue to be troublesome. Violations of the Liquor Control Act occur most frequently in Restaurants. Our Investigators have kept a constant watch on Restaurants and as a result many such licenses to sell alcoholic beverages have been suspended or revoked. The authority vested in Local Licensing Authorities to grant Restaurant licenses for the sale of alcoholic beverages on secular days only has been of great assistance in properly controlling the business done in these establishments. In some cities and towns the Local Licensing Authorities have issued no licenses permitting the sale of alcoholic beverages in Restaurants on Sundays. We strongly urge upon Local Licensing Authorities that Restaurant licenses for the sale of alcoholic beverages on Sundays be not granted to Restaurant licensees whose conduct of their business is such as to warrant the belief that they cannot be safely entrusted with the privilege of selling such beverages on Sundays.

TAVERNS

We have frequently expressed our satisfaction with the manner in which the large majority of Tavern licensees have conducted their business. The number of Tavern licenses, as compared to the number of Hotel, Restaurant and Club licenses is relatively small, and several of the latter should be converted into Tavern licenses. Such changes would undoubtedly result in great improvement in the conditions surrounding the sale of alcoholic beverages for on-premises consumption.

Section 11A of the Liquor Control Act provides the only method by which the sale of alcoholic beverages in Taverns can be legalized in cities and towns which have not as yet voted to authorize such sale. Under the provisions of this section, it is necessary for those who favor the sale of alcoholic beverages in Taverns, to file a petition signed by at least one per cent of the whole number of registered voters of a city or town, requesting that the question of licensing the sale of alcoholic beverages in Taverns be submitted to the voters. If such a petition is filed, the question shall be submitted at a special or regular election.

The Commission is of the opinion that the provisions of the Liquor Control Act should be amended so that alcoholic beverages may be sold in Taverns in any city or town which votes to permit the sale of such beverages in Hotels, Restaurants and Clubs. We are certain that if such an amendment is adopted many Local Licensing Authorities will take advantage of its provisions and grant Tavern licenses to many establishments now licensed as Restaurants.

CLUBS

Clubs licensed to sell alcoholic beverages continue to warrant strong criticism of the conduct of their affairs, insofar as they relate to the sale of alcoholic beverages. In making this statement, we do not want to have it taken as applicable to the large number of social and fraternal organizations which are licensed to sell alcoholic beverages, the affairs of which are decently and orderly conducted. Unfortunately, as has been pointed out in our previous reports, a large number of so-called "mushroom" organizations sprang up and flourished under the Prohibition Amendment and have continued in existence since Repeal. Any number of such Clubs throughout the Commonwealth are constantly selling alcoholic beverages to minors and are also selling such beverages after the legal closing hours for such sales. Only the most drastic action on the part of the Licensing Authorities will cause this type of organization to realize that the Law with respect to the sale of alcoholic beverages must be obeyed. We earnestly recommend that all Local Licensing Authorities impose heavy penalties on all Clubs found guilty of violating any provision of the Liquor Control Act. It is only by revocation of Club licenses that we can drive these "undesirables" out of existence.

We believe that the laws relating to the issuance and continuance of club charters should be substantially amended. It is practically impossible to revoke a Club charter once it has been issued. We feel that any Club which holds a charter issued by the Secretary of the Commonwealth, and also a license to sell alcoholic beverages issued by the Licensing Authorities, which does not fully comply with the provisions of the Liquor Control Act should have its charter, as well as its license to sell alcoholic beverages, revoked.

We therefore recommend to the General Court the enactment of legislation which will provide that the charter of a Club shall be deemed to have been forfeited if the Licensing Authorities revoke the Club license to sell alcoholic beverages.

"PACKAGE GOODS" STORES

Two of the amendments to the Liquor Control Act which were adopted at this year's Session of the Legislature affect the sale of alcoholic beverages in "Package Goods" Stores. Prior to the adoption of one of these amendments, no alcoholic beverages could be legally sold in "Package Goods" Stores on legal holidays. This amendment provided that alcoholic beverages could be sold between the hours of one o'clock P. M. and six o'clock P. M. on all legal holidays other than May thirtieth, Thanksgiving Day and Christmas Day, or on the day following when May thirtieth or Christmas Day occurs on Sunday. The second amendment provided that an additional question be placed on the ballot used at biennial State elections to enable the voters of any city or town to vote for the sale of alcoholic beverages in "Package Goods" Stores, and against the sale of such beverages to be drunk on the premises. Both of these amendments were of great aid to "Package Goods" Store licensees. We believe that their adoption was made possible by the very fine manner in which these licensees conducted their business. It is hoped that the future conduct of the business being done in "Package Goods" Stores will be of such a nature as to warrant a continuance of the opinion that the alcoholic beverages business is properly conducted in such establishments.

GENERAL REMARKS

In our Annual Report for the fiscal year 1935, we recommended that the provision of the Liquor Control Act which authorized the issuance of licenses for the sale of beers and wines, or either, without restriction as to number, should be repealed. We desire to renew this suggestion. Events which have occurred during the past year have caused us to feel more strongly than ever that a limitation should be imposed upon the number of such licenses which may legally be granted. We sincerely hope that the General Court will adopt our suggestion during the Legislative Session of 1937.

We again desire to express our appreciation to Local Licensing Authorities for the cooperation and assistance which they have given us in the administration of the provisions of the Liquor Control Act. Generally speaking, the said Authorities in the various cities and towns of the State have meted out penalties to all licensees who were brought before them, commensurate with the nature of the violations reported by our Investigators. Such action has been of inestimable aid and has served as a warning to licensees as to what they may expect if they violate the provisions of the Liquor Control Act.

We also desire to express our appreciation to the Joint Legislative Committee on Legal Affairs for the courtesy which they have shown us on the many occasions when we conferred with them, and for the earnest and sincere manner in which they approached consideration of proposed amendments to the Liquor Control Act.

Respectfully submitted,

ALCOHOLIC BEVERAGES CONTROL COMMISSION

WILLIAM P. HAYES, *Chairman*

JOHN P. BUCKLEY,

WILLIAM E. WEEKS,

Commissioners.